

CONVENTION FOR THE CONSERVATION OF ANADROMOUS STOCKS IN THE NORTH PACIFIC OCEAN

AUGUST 6 (legislative day, AUGUST 5), 1992.—Ordered to be printed

Mr. PELL, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany Treaty Doc. 102-30]

The Committee on Foreign Relations to which was referred the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, with Annex, which was signed by the United States, Canada, Japan, and the Russian Federation on February 11, 1992, in Moscow having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

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I. PURPOSE

The purpose of the Convention is to prohibit high seas fishing for North Pacific salmon within the Convention area. The Convention applies to chum, coho, pink, sockeye, chinook, and cherry salmon and steelhead trout.

II. BACKGROUND

The Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean is part of a series of international agreements designed to regulate the taking of anadromous stocks of fish. (Anadromous fish are fish that spawn in fresh or estuarine waters,

move to the open ocean for a significant portion of their lives, and then return to fresh or estuarine waters to spawn.) These fish do not remain in any one country's exclusive economic zone, raising the possibility that over-fishing may result from a lack of a comprehensive management scheme.

Early efforts to address this problem were encompassed in the International Convention for the High Seas Fisheries of the North Pacific Ocean [INPFC Convention] which was signed by the United States, Canada, and Japan in 1952. One of the key provisions of this Convention was the establishment of the so-called "abstention line" which prohibited the Japanese from fishing to the east of 175 degrees west longitude. At the time, it was thought that this measure would protect United States and Canadian origin salmon from Japanese fishing, while still allowing Japanese fishermen to harvest Asian salmon. Subsequent research revealed, however, that western Alaskan salmon in particular, migrated well to the west of the abstention line and that the taking of these fish by Japanese fisherman significantly depleted their stocks.

In the 1980's, the United States successfully pursued initiatives to reduce directed high seas salmon fishing. In 1986, the INPFC Convention was amended to phase-out Japan's salmon fishery in the central Bering Sea area. Nonetheless, continued large losses of U.S.-origin salmon on the high seas prompted calls for a complete cessation of such fishing. Moreover, the steady increase of high-seas squid driftnet fishing by Taiwan, Japan, and Korea caused serious concern because of its potential for salmon bycatch.

Beginning in 1988, the United States and the Soviet Union began a consultative process to address mutual concerns about high seas salmon fishing. These discussions were broadened to include Canada and Japan and ultimately resulted in the Convention on Anadromous Stocks with its prohibition on high seas salmon fishing.

The basis for the Convention's treatment of anadromous stocks is found in customary international law, as reflected in Article 66 of the 1982 United Nations Convention on the Law of the Sea, which recognizes that states in whose rivers anadromous stocks originate have primary interest in and responsibility for these stocks, even when they move to the high seas.

The Convention will replace the two existing regimes to manage high seas salmon fishing in the North Pacific, the INPFC Convention and a bilateral process between the former Soviet Union and Japan.

III. MAJOR PROVISIONS

Article III of the Convention prohibits the directed take of salmon stocks, and requires that their incidental take be reduced to the "maximum extent practicable." The Convention applies to the area of the North Pacific Ocean north of 33 degrees North Latitude and beyond coastal state 200 mile exclusive economic zones [EEZ's].

The Convention contains several enforcement mechanisms. Article III allows Parties to "take appropriate measures, individually and collectively, to prevent trafficking" in illegally harvested

stocks. Article V allows for the boarding, search, and seizure of ships or the arrest of individuals of one Party suspected of violating the provisions of the Convention of one Party by duly authorized officials of another Party. Any ship seized or individual arrested in this manner shall be turned over to their government as soon as possible. That government shall then be responsible for taking appropriate legal action. Under Article VI, Parties agree to share information on any activities contrary to the provisions of the Convention.

Article VII provides for the sharing of scientific information regarding anadromous stocks within and outside the Convention area.

Article VIII establishes the North Pacific Anadromous Fish Commission, headquartered in Vancouver, Canada. The purpose of the Commission is to promote the conservation of anadromous stocks in the Convention Area. Each of the four parties is a member of the Commission and may appoint up to three representatives. All "important" commission decisions will be made by consensus, with each party having the right to decide if an issue is "important."

Article IX vests the Commission with broad authority to make recommendations and collect information. This includes authority to: recommend measures for the conservation of anadromous stocks; promote the exchange of information about activities contrary to the purpose of the convention; consider and make proposals for the enactment of schedules of equivalent penalties for activities contrary to the Convention; and recommend amendments to the Convention.

Article X describes the functions and responsibilities of the the Commission's secretariat.

Article XI contains the Convention's financial provisions and stipulates that the budget shall be divided equally among the Parties

IV. COMMITTEE RECOMMENDATIONS AND COMMENTS

The committee applauds conclusion of the Convention on Anadromous Stocks. The Convention is a significant advance in efforts to promote the conservation of Pacific salmon and to protect the livelihoods of U.S. fishermen. The committee has received strong affirmations of support for the Convention from Members of the Alaska, Oregon, and Washington delegations.

The committee notes that the Convention is consistent with internationally recognized goals for high seas fisheries as embodied in Agenda 21 of the recently concluded United Nations Conference on Environment and Development. Section 17.49 of that document calls on states to "take effective action, including bilateral and multilateral cooperation, where appropriate at the subregional, regional and global levels, to ensure that high seas fisheries are managed in accordance with the provisions of the United Nations Convention on the Law of the Sea." The committee encourages the administration to continue to support actions which will promote the implementation of Agenda 21.

The committee notes that the multistate Commission created under this agreement is empowered with broad authorities to take

action to protect anadromous species, including proposing the adoption by each of the Parties of uniform certificate of origin programs. In the committee's view, the latter would be of assistance in discouraging the sale of anadromous fish and fish products harvested without the consent of their nations of origin, and the Committee strongly encourages the United States representatives on the Commission to pursue the exercise of this authority.

Finally, the committee encourages the administration to seek adherence to the terms of the Convention by those non-Parties whose fishing activities affect the conservation of Pacific salmon.

V. COMMITTEE ACTION

On June 17, 1992, the committee held a hearing on the Convention. The committee received testimony from: The Honorable Bob Packwood, United States Senator; the Honorable David Colson, Deputy Assistant Secretary for Oceans and Fisheries Affairs, Department of State; and the Honorable Richard Lauber, Chairman, North Pacific Fishery Management Council; and Commissioner, International North Pacific Fisheries Commission.

The Committee considered the Convention at its business meeting on July 2, 1992, and ordered it reported favorably by voice vote with a quorum present to the Senate for its advice and consent.

VI. ENTRY INTO FORCE

The Protocol shall enter into force 90 days after the date of deposit of the fourth instrument of ratification, acceptance, or approval.

VII. TEXT OF RESOLUTION OF RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, with Annex, which was signed by the United States, Canada, Japan and the Russian Federation on February 11, 1992, in Moscow.